

TITLE 14. Fish and Game Commission Notice of Proposed Changes in Regulations

**(Continuation of California Notice Register 2002, No. 48-Z,
Notice File No. Z02-1119-03, and Meeting of December 6, 2002.)**

**(NOTE: See Updated Informative Digest and
Scheduled Adoption Hearing Location changes shown in bold face type.)**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections **200, 1002, 2118, 2120, 2122, 2150, and 2150.2**, Fish and Game Code and to implement, interpret or make specific sections **200, 1002, 2116-2118, 2118.2, 2118.4, 2119-2155, 2190, 2271, 3005.9, 3005.92 and 12007**, Fish and Game Code, proposes to add new Section 1.92, and amend Sections **671 and 671.1**, Title 14, California Code of Regulations, to define the term “Transgenic”, and add transgenic aquatic animals to the list of live animals restricted for importation, transportation and possession

Updated Informative Digest/Policy Statement Overview

Transgenic species are an example of biotechnological products that are produced under artificial conditions with the goal of enhancing yield or some other economically important biological trait. For example, some aquaculturists are interested in creating a transgenic fish product that grows faster than a natural fish. Transgenic manipulation involves incorporating genetic material (DNA) from one ~~species~~**organism** into chromosomes of another. The resulting genetic makeup is unique and these biotechnologically constructed organisms have no genetic counterparts in natural systems. Because of their novel genetic structure, transgenic species should be considered “non-indigenous”, and potentially detrimental to native species.

To make clear, and explicit, the authority to allow or deny use of transgenic fish species, the Department recommends that transgenic fish be added, as a general category, to the Commission’s list of restricted species in Section 671, Title 14, CCR. **In addition, it is recommended that the terms and conditions for which the Department may issue a permit for transgenic aquatic animals be added to Section 671.1(a).** The Department has already drafted changes to the **application form (FG 789)** used for live fish importation **permits**. The change will require applicants to disclose the transgenic nature of the fish applied for.

Permit terms and conditions center around containment of transgenic animals within secure facilities and prevention of their escape or placement into waters of the State. Because of the uniqueness of building configuration, plumbing and security methods of each facility that may hold transgenic animals, permit authorization will be based on site inspections that consider the identified terms and conditions.

With the intent of informing the public of those facilities permitted to import, possess, or transport transgenic aquatic animals, the Department will provide the Commission with information regarding each restricted species permit application

or aquaculture registration that has been approved or is under consideration for transgenic species.

In developing the definition of transgenic as used in the context of these regulations, the Department has considered the recommendations and technical expertise of interested persons from the Department, academia, legislature representatives, the aquaculture industry, organizations concerned with natural resource issues, and other interested parties.

NOTICE IS GIVEN that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in **the Resource Building First Floor Auditorium, 1416 Ninth Street, Sacramento**, on Friday, February 7, 2003, at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before January **31**, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than February 7, 2003, at the hearing in **Sacramento, CA**. E-mail comments must include the true name and mailing address of the commenter.

The regulations as proposed in strikeout-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Jon D. Snellstrom at the preceding address or phone number. Dr. Ed Pert, Chief, Fisheries Program Branch, Department of Fish and Game, phone (916) 445-3616, 1812 Ninth Street, Sacramento, CA 95814, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at <http://www.dfg.ca.gov>.

Availability of Modified Text

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

Impact of Regulatory Action

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States: The proposed action will not have a significant statewide adverse economic impact affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed change will provide for continued research and development of transgenic aquatic organisms under safeguards appropriate to protect the wildlife resources of the State.
- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on Private Persons: The agency is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Other Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

Effect on Small Business

It has been determined that the adoption of these regulations may affect small business.

Consideration of Alternatives

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FISH AND GAME COMMISSION

Dated: December 10, 2002

John M. Duffy
Assistant Executive Director